

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2524

AN ACT

AMENDING SECTIONS 48-2309, 48-2333, 48-2362, 48-2363, 48-2364, 48-2365, 48-2366, 48-2383 AND 48-2384, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 17, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-2384.01; AMENDING SECTION 48-2392, ARIZONA REVISED STATUTES; REPEALING SECTION 48-2421, ARIZONA REVISED STATUTES; RELATING TO AGRICULTURAL IMPROVEMENT DISTRICTS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 48-2309, Arizona Revised Statutes, is amended to
3 read:

4 48-2309. Qualifications of electors

5 No person shall be entitled to vote at any election held under the
6 provisions of this chapter unless the person possesses all the qualifications
7 required of electors for state officers under the general election laws and
8 is the owner of record, or holds the power of revocation over a revocable
9 trust that is the owner of record, of real property that is located within
10 the boundaries of the district as of ~~sixty~~ ONE HUNDRED days preceding the
11 district election and on which the person or trust has been assessed for
12 property taxes as shown by the property tax roll next preceding the date of
13 the election.

14 Sec. 2. Section 48-2333, Arizona Revised Statutes, is amended to read:

15 48-2333. Meetings of board of directors; minutes

16 A. The board of directors shall hold a regular meeting in its office
17 on the first ~~Tuesday~~ MONDAY in March, June, September and December, and such
18 special meetings as required for the transaction of business. IF THE DAY
19 PRESCRIBED FOR A MEETING IS A LEGAL HOLIDAY, THE BOARD SHALL MEET ON THE
20 MONDAY FOLLOWING THE LEGAL HOLIDAY.

21 B. All special meetings shall be ordered by the president or a
22 majority of the board by order entered in the minutes specifying the business
23 to be transacted. Three days notice to any member not joining in the order
24 shall be given by the secretary, and only the business specified in the order
25 shall be transacted at the special meeting.

26 C. All meetings of the board shall be public and a majority of the
27 members shall constitute a quorum for the transaction of business.

28 D. Minutes of all proceedings of the board shall be kept by the
29 secretary and all records of the board shall be open to public inspection
30 during business hours.

31 Sec. 3. Section 48-2362, Arizona Revised Statutes, is amended to read:

32 48-2362. District council; powers; meetings

33 A. The council shall consist of thirty members, three of whom shall be
34 elected from each division. ~~The members~~ EACH MEMBER shall at the time of
35 ~~their~~ election be ~~owners~~ THE OWNER OF RECORD, OR HOLD THE POWER OF REVOCATION
36 OVER A REVOCABLE TRUST THAT IS THE OWNER OF RECORD, of land located in the
37 division from which ~~they are~~ THE MEMBER IS elected, and shall be ~~residents~~ A
38 RESIDENT of the district.

39 B. The council may enact and adopt by-laws and provide for the
40 enforcement thereof for the government of the district, the management of its
41 business and the conduct of its affairs, and may repeal, modify and amend
42 them from time to time. No by-law shall be passed or enforced which will
43 interfere with any existing vested right of any landowner within the district
44 to the use of water for irrigation.

1 C. The council shall meet at least once each year in the place where
2 the principal office of the district is located. The regular annual meeting
3 of the council shall begin on the first Tuesday in May each year, and shall
4 continue in session at its pleasure. Special meetings may be called in such
5 manner and at such times as prescribed by the by-laws.

6 D. The compensation of members of the board of directors shall be
7 determined by the council, but shall not exceed sixty dollars per day for
8 each day's attendance at meetings of the board, and actual and necessary
9 expenses while engaged in official business under order of the board.

10 Sec. 4. Section 48-2363, Arizona Revised Statutes, is amended to read:

11 48-2363. Board of directors; qualifications; election; powers
12 and duties

13 A. Until the election held in 1980, the board of directors shall
14 consist of the president and twelve directors, one of whom shall be elected
15 from each division and two of whom shall be elected at large to fill the
16 seats which shall be designated as at large director seats numbers 12 and 14.
17 Beginning with the election held in 1980, the board shall consist of the
18 president and fourteen directors, one of whom shall be elected from each
19 division and four of whom shall be elected at large to fill the seats which
20 shall be designated as at large director seats numbers 11, 12, 13 and 14.
21 ~~The members~~ EACH MEMBER shall at the time of election be ~~owners~~ THE OWNER OF
22 RECORD, OR HOLD THE POWER OF REVOCATION OVER A REVOCABLE TRUST THAT IS THE
23 OWNER OF RECORD, of land located in the division from which ~~they are~~ THE
24 MEMBER IS elected or in the case of directors at large, land located within
25 the district, and shall be ~~residents~~ A RESIDENT of the district.

26 B. The board of directors shall, except as modified by this article,
27 have the same powers, obligations and duties as are otherwise prescribed in
28 this chapter. Except for the president and vice-president who shall be
29 elected as provided by this article, the board of directors may appoint
30 officers necessary for the efficient administration of the affairs of the
31 district, and fix their compensation.

32 Sec. 5. Section 48-2364, Arizona Revised Statutes, is amended to read:

33 48-2364. President and vice-president; election; term of office

34 The president and vice-president of the district shall be elected at
35 large at the regular election and shall serve for a term of four years. ~~They~~
36 EACH shall be ~~residents~~ A RESIDENT and ~~landowners~~ THE OWNER OF RECORD, OR
37 HOLD THE POWER OF REVOCATION OVER A REVOCABLE TRUST THAT IS THE OWNER OF
38 RECORD, OF LANDS WITHIN THE BOUNDARIES of the district and shall have such
39 powers and perform such duties as prescribed by law and the by-laws of the
40 district. The president shall be the chief officer of the district and shall
41 have general supervision over all other officers of the district in the
42 performance of their duties as such and of the conduct and business affairs
43 of the district. The president shall preside at all meetings of the board of
44 directors and shall be ex officio a member of that board.

1 Sec. 6. Section 48-2365, Arizona Revised Statutes, is amended to read:
2 48-2365. Terms of office; elections

3 A. Elections shall be held on the first Tuesday in April each
4 even-numbered year. The terms of councilmen, directors, president and vice
5 president shall be four years and shall commence on the first Monday in May
6 following the election. The president, vice president, and directors and
7 councilmen elected from divisions 2, 4, 6, 8 and 10, and directors at large
8 numbers 12 and 14, shall be elected to terms of four years at the regular
9 election held in 1978 and every four years thereafter. Directors and
10 councilmen elected from divisions 1, 3, 5, 7 and 9 shall be elected to terms
11 of two years at the regular election held in 1978 and to terms of four years
12 at the regular election held in 1980 and every four years thereafter.
13 Directors at large numbers 11 and 13 shall be elected at the regular election
14 held in 1980 and every four years thereafter.

15 B. The governing body of the district may at any time after March 6,
16 1952, by appropriate resolution, divide the district into divisions as
17 provided in this article, and shall thereupon assign to proper divisions
18 directors theretofore elected and whose terms have not expired, and appoint
19 councilmen to serve until their successors are elected and qualified at the
20 next succeeding election.

21 C. Nominations for council and the board of directors seats 1 through
22 10 shall be by petition signed by not less than twenty-five landowners within
23 their division, and nominations for president and vice president and board of
24 directors seats 11 through 14 shall be signed by not less than two hundred
25 fifty landowners within the district and filed with the secretary of the
26 district at least ~~twenty~~ SIXTY days before the election. Nominating
27 petitions for election as director at large shall state to which numbered
28 seat the petitioner seeks election. A petitioner shall not file petitions
29 for more than one office or seat and shall not be eligible for election to
30 any other seat or office of the district at that election.

31 D. The directors at large shall be elected by the electors of the
32 district qualified under this chapter, and each such qualified elector shall
33 be entitled to cast one vote for the election of each director at large,
34 notwithstanding that the petition for organization of the district provides
35 for acreage voting.

36 Sec. 7. Section 48-2365, Arizona Revised Statutes, is amended to read:
37 48-2365. Terms of office; elections

38 A. Elections shall be held on the first Tuesday in April each
39 even-numbered year. The terms of councilmen, directors, president and
40 vice-president shall be four years and shall commence on the first Monday in
41 May following the election. The president, vice-president, and directors and
42 councilmen elected from divisions 2, 4, 6, 8 and 10, and directors at large
43 numbers 12 and 14, shall be elected to terms of four years at the regular
44 election held in 1978 and every four years thereafter. Directors and
45 councilmen elected from divisions 1, 3, 5, 7 and 9 shall be elected to terms

1 of two years at the regular election held in 1978 and to terms of four years
2 at the regular election held in 1980 and every four years thereafter.
3 Directors at large numbers 11 and 13 shall be elected at the regular election
4 held in 1980 and every four years thereafter.

5 B. The governing body of the district may at any time after March 6,
6 1952, by appropriate resolution, divide the district into divisions as
7 provided in this article, and shall thereupon assign to proper divisions
8 directors theretofore elected and whose terms have not expired, and appoint
9 councilmen to serve until their successors are elected and qualified at the
10 next succeeding election.

11 C. Nominations for council and the board of directors seats 1 through
12 10 shall be by petition signed by not less than twenty-five ~~landowners~~ OWNERS
13 OF RECORD, OR HOLDERS OF THE POWER OF REVOCATION OVER A REVOCABLE TRUST THAT
14 IS THE OWNER OF RECORD, OF LAND within ~~their~~ THE CANDIDATE'S division, and
15 nominations for president and vice-president and board of directors seats 11
16 through 14 shall be signed by not less than two hundred fifty ~~landowners~~
17 OWNERS OF RECORD, OR HOLDERS OF THE POWER OF REVOCATION OVER A REVOCABLE
18 TRUST THAT IS THE OWNER OF RECORD, OF LAND within the district and filed with
19 the secretary of the district at least twenty days before the election.
20 Nominating petitions for election as director at large shall state to which
21 numbered seat the petitioner seeks election. A petitioner shall not file
22 petitions for more than one office or seat and shall not be eligible for
23 election to any other seat or office of the district at that election.

24 D. The directors at large shall be elected by the electors of the
25 district qualified under this chapter, and each such qualified elector shall
26 be entitled to cast one vote for the election of each director at large,
27 notwithstanding that the petition for organization of the district provides
28 for acreage voting.

29 Sec. 8. Section 48-2366, Arizona Revised Statutes, is amended to read:
30 48-2366. Vacancies in office

31 If any member of the council or board of directors ceases to be
32 ~~a landowner~~ THE OWNER OF RECORD, OR THE HOLDER OF THE POWER OF REVOCATION
33 OVER A REVOCABLE TRUST THAT IS THE OWNER OF RECORD, OF LAND in ~~his~~ THE
34 MEMBER'S division or a resident of the district, or if the president or
35 vice-president ceases to be ~~a landowner~~ THE OWNER OF RECORD, OR THE HOLDER OF
36 THE POWER OF REVOCATION OVER A REVOCABLE TRUST THAT IS THE OWNER OF RECORD,
37 OF LANDS WITHIN THE BOUNDARIES OF THE DISTRICT or A resident of the district,
38 ~~his~~ THE office shall thereupon become vacant. The council may by appointment
39 fill a vacancy in the council and in the board of directors. The council
40 shall adopt by-laws providing for the filling of vacancies in the office of
41 president or vice-president.

1 Sec. 9. Section 48-2383, Arizona Revised Statutes, is amended to read:
2 48-2383. Acreage system of voting

3 A. The petition for organization of the district may provide that each
4 owner of land shall have one vote, or may provide for voting on an acreage
5 basis.

6 B. Except as provided in section 48-2365, subsection D, if the
7 district is or has been organized under a provision for voting on an acreage
8 basis, each landowner possessing the qualifications of an elector shall be
9 entitled to cast one vote at all elections after the organization election on
10 each office to be filled, or each question submitted, for each acre of land
11 within the district owned by him.

12 C. Except as provided in section 48-2365, subsection D, from and after
13 April 18, 1969 each landowner possessing the qualifications of an elector who
14 owns less than one acre of land within the district shall be entitled to a
15 fractional vote on each office to be filled or each question submitted. The
16 fractional vote shall be equal to the fraction of an acre owned by such
17 elector.

18 D. If land is held in more than one name, each owner otherwise
19 possessing the qualifications of an elector may vote the number of acres or
20 fractions thereof represented by his legal interest or proportionate share of
21 and in the lands.

22 E. The result of each election shall be determined by ~~a majority of~~
23 ~~the acres voted~~ THE HIGHEST NUMBER OF VOTES CAST as provided in subsections
24 B, C and D of this section.

25 F. The district shall maintain a record of the persons owning real
26 property within the boundaries of the district as such ownership appears on
27 the records of the county recorder and the number of votes or fractions
28 thereof the owner thereof shall be entitled to vote.

29 Sec. 10. Section 48-2384, Arizona Revised Statutes, is amended to
30 read:

31 48-2384. Designation of election precincts and voting places;
32 notice of election; election officers; polling
33 places

34 A. The board shall on or before October 1st of each year preceding the
35 year of an election, by an order, establish a convenient number of election
36 precincts in each division, and define the boundaries thereof.

37 B. Fifteen days before an election held under this article, the
38 secretary of the board shall cause ~~notices~~ A NOTICE to be posted in ~~three~~ A
39 public ~~places~~ PLACE in each election precinct of the time and place of
40 holding the election, and shall post a similar notice thereof in a
41 conspicuous place at the office of the board, specifying the polling places
42 of each precinct and the names of the members of the board of election for
43 each precinct. Notice of the election shall also be given by publication in
44 a newspaper published in the county in which the office of the board of
45 directors of the district is located, once a week for at least two successive

1 weeks. The notice shall specify the time of the holding of the election, the
2 boundaries of the precincts, and the location of the polling places.

3 C. Prior to the time for posting the notices the board shall appoint
4 for each precinct from the electors thereof one inspector, one judge and one
5 clerk, who shall constitute a board of election for the precinct. If the
6 board fails to appoint a board of election, or if the persons appointed, or
7 any of them, do not attend at the opening of the polls on the morning of the
8 election, the electors of the precinct present at that hour may appoint the
9 election board or fill the places of the absent members thereof.

10 D. The board of directors shall in its order appointing the board of
11 election designate the place in each precinct where the election shall be
12 held.

13 Sec. 11. Title 48, chapter 17, article 4, Arizona Revised Statutes, is
14 amended by adding section 48-2384.01, to read:

15 48-2384.01. Alternative election process

16 NOTWITHSTANDING ANY OTHER LAW, AS AN ALTERNATIVE TO THE ELECTION
17 PROCESS PRESCRIBED IN SECTION 48-2384, THE BOARD MAY CHOOSE TO CONDUCT VOTING
18 IN ANY ELECTION EXCLUSIVELY UNDER THE FOLLOWING ALTERNATIVE ELECTION PROCESS:

19 1. BEGINNING NINETY DAYS NEXT PRECEDING THE SATURDAY BEFORE ANY
20 ELECTION, THE SECRETARY OF THE BOARD SHALL CAUSE NOTICE OF THE ELECTION TO BE
21 GIVEN BY PUBLICATION IN A NEWSPAPER PUBLISHED IN THE COUNTY IN WHICH THE
22 OFFICE OF THE BOARD OF DIRECTORS OF THE DISTRICT IS LOCATED, ONCE A WEEK FOR
23 AT LEAST TWO SUCCESSIVE WEEKS. THE NOTICE SHALL PROVIDE THAT THE ELECTION
24 SHALL BE CONDUCTED BY THE ALTERNATIVE ELECTION PROCESS AND SHALL DESCRIBE THE
25 PROCEDURES FOR OBTAINING AND SUBMITTING A BALLOT AND THE APPLICABLE TIMES AND
26 DATES. IN ADDITION, THE NOTICE SHALL BE POSTED IN ONE PUBLIC PLACE IN EACH
27 DIVISION AND IN A CONSPICUOUS PLACE AT THE OFFICE OF THE BOARD.

28 2. BALLOTS MAY BE REQUESTED IN PERSON AT THE OFFICE OF THE SECRETARY
29 OF THE BOARD, OR MAY BE REQUESTED BY MAIL, TELEPHONE, THE INTERNET OR OTHER
30 ELECTRONIC MEANS CONSISTENT WITH PROCEDURES TO BE ESTABLISHED BY THE
31 SECRETARY. BALLOTS MAY ALSO BE REQUESTED AND VOTED AT AN ON-SITE EARLY
32 VOTING LOCATION, WHICH SHALL REMAIN OPEN UNTIL 7:00 P.M. ON THE DAY OF THE
33 ELECTION. THE PROCESS AND TIME FRAMES FOR REQUESTING AND VOTING BALLOTS
34 SHALL GENERALLY COMPLY WITH THE PROCESS ESTABLISHED FOR EARLY VOTING BY
35 SECTION 16-542, TO THE EXTENT NOT INCONSISTENT WITH THIS ARTICLE.

36 3. BALLOTS MAY BE RETURNED BY MAIL AND MUST BE RECEIVED BY THE
37 SECRETARY OF THE BOARD NO LATER THAN 7:00 P.M. ON THE DAY OF THE ELECTION.

38 4. BALLOTS MAY ALSO BE RETURNED IN PERSON AT THE OFFICE OF THE
39 SECRETARY OF THE BOARD AND AT OTHER LOCATIONS AS MAY BE ESTABLISHED AT THE
40 DISCRETION OF THE BOARD NO LATER THAN 7:00 P.M. ON THE DAY OF THE ELECTION.

1 5. FOR PURPOSES OF ELECTIONS CONDUCTED PURSUANT TO THIS SECTION, THERE
2 SHALL BE A SINGLE BOARD OF ELECTION CONSISTING OF ONE INSPECTOR, ONE JUDGE
3 AND ONE CLERK, ALL OF WHOM ARE APPOINTED BY THE BOARD OF DIRECTORS.

4 6. ELECTIONS CONDUCTED PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE
5 16, CHAPTER 4, ARTICLE 8.1.

6 Sec. 12. Section 48-2392, Arizona Revised Statutes, is amended to
7 read:

8 48-2392. Tie vote; primary and general election

9 A. If, at any election held as provided in this article, there ~~be any~~
10 ~~office or offices to which no candidate therefor received a majority of the~~
11 ~~votes cast~~ ARE TWO OR MORE CANDIDATES WHO ARE TIED FOR THE HIGHEST NUMBER OF
12 VOTES CAST FOR A SINGLE OFFICE, then as to ~~such THAT~~ office ~~or offices said~~
13 THE election shall be considered to be a primary election for the nomination
14 of candidates for ~~such THAT~~ office ~~or offices~~, and a second or general
15 election shall be held not less than thirty days following the canvassing of
16 election returns, to vote for ~~candidates~~ A CANDIDATE to fill ~~such THAT~~ office
17 ~~or offices~~. The candidates WHO WERE not elected at ~~such THE~~ first
18 election, ~~equal in number to twice the number to be elected to any given~~
19 ~~office, or less if so there be,~~ and who received WERE TIED FOR the highest
20 number of votes for the ~~respective~~ office ~~or offices~~ at ~~such THE~~ first
21 election shall be the only candidates at ~~such THE~~ second election; ~~provided~~
22 ~~that, if there be any persons who under the provisions of this section would~~
23 ~~have been entitled to become candidates for any office except for the fact~~
24 ~~that another candidate or candidates received an equal number of votes~~
25 ~~therefor, then such persons receiving said equal number of votes shall~~
26 ~~likewise become candidates for such office or offices.~~

27 B. The ~~candidates equal in number to the persons to be elected~~
28 CANDIDATE who ~~shall receive~~ RECEIVES the highest number of votes at ~~said THE~~
29 second election HELD PURSUANT TO SUBSECTION A shall be declared elected to
30 such office.

31 Sec. 13. Repeal

32 Section ~~48-2421~~, Arizona Revised Statutes, is repealed.

33 Sec. 14. Conditional enactment; notice

34 A. Sections 48-2309, 48-2383, 48-2384 and 48-2392, Arizona Revised
35 Statutes, as amended by this act, and section 48-2365, Arizona Revised
36 Statutes, as amended by section 6 of this act, are not effective unless the
37 Salt river valley water users' association votes in an election held on or
38 before December 31, 2008 and approves amendments to the association's
39 articles of incorporation that are similar to all of the statutory sections
40 prescribed in this subsection.

1 B. Sections 48-2362, 48-2363, 48-2364 and 48-2366, Arizona Revised
2 Statutes, as amended by this act, and section 48-2365, Arizona Revised
3 Statutes, as amended by section 7 of this act, are not effective unless the
4 Salt river valley water users' association votes in an election held on or
5 before December 31, 2008 and approve amendments to the association's articles
6 of incorporation that are similar to all of the statutory sections prescribed
7 in this subsection.

8 C. The governing body of the Salt river project agricultural
9 improvement and power district shall notify in writing the director of the
10 Arizona legislative council of the date on which either or both of the
11 conditions are met or if the conditions are not met.